

## Department of Veterans Affairs

## 814.407-3

the name of the surety. The recorder must record this information.

### **814.403 Recording of bids.**

(a) The recorder must transcribe the information required for bid evaluation on the appropriate Abstract of Offers form (SF 1409 or OF 1419). The evaluation data may be recorded on supplemental sheets or forms such as VA Form 10-2237b, Request for Dietetic Supplies, provided that any supplemental sheets or forms are covered by one of the forms authorized for recording bid or price data.

(b) The bid opening officer must comply with the instructions in FAR 14.403 and certify on the abstract the date and hour at which the bids were opened. Where erasures, strikeouts, or changes in price are noted at the time of bid opening, a statement to that effect must also be included on, or attached to, the abstract or record of bids.

### **814.404 Rejection of bids.**

#### **814.404-1 Cancellation of invitations after opening.**

(a) For each invitation to bid that VA cancels or for which it receives no bid, the contracting officer must do the following:

(1) File a copy of the invitation for bids, as provided for in FAR 14.404-1, together with the abstract showing to whom such bids were sent, in a separate folder identified by the invitation number.

(2) Annotate the abstract to show why an award was not made.

(3) Retain the folders for the current and two succeeding fiscal years.

(b) The HCA may approve cancellation of invitations for bid after opening and may approve completion of the acquisition after cancellation, as provided in FAR 14.404-1(e). The contracting officer must submit a Determination and Finding to the HCA for approval and signature.

#### **814.404-2 Rejection of individual bids.**

(a) When a contracting officer finds a bid that is being considered for an award is incomplete, e.g., all pages of the invitation have not been returned by the bidder, the contracting officer

will take whichever of the following actions that is appropriate:

(1) Make a determination that the bid as submitted is in such a form that acceptance would create a valid and binding contract, requiring the contractor to perform in accordance with all of the material terms and conditions of the invitation. The determination may be based on the fact that the bid as submitted includes evidence that the offeror intends to be bound by all the material terms and conditions of the invitation.

(2) Make a determination that the bid as submitted is in such a form that acceptance would not create a valid and binding contract.

(b) When VA receives a single bid in response to a solicitation, the contracting officer must not reject the offer simply because it specifies a bid acceptance time that is shorter than that contained in the solicitation, unless a compelling reason exists for rejecting such a bid. Insufficient time to properly evaluate an offer is a compelling reason for rejection; however, the contracting officer must first request the offeror to extend the acceptance date of the bid to allow for proper evaluation.

(c) In those cases where VA receives more than one bid, the contracting officer must reject as nonresponsive an individual bid that is not in compliance with the Government's bid acceptance time, since consideration of such an offer would unfairly disadvantage other bidders.

#### **814.404-70 Questions involving the responsiveness of a bid.**

If a contracting officer cannot resolve a question involving the responsiveness of a bid, the contracting officer may submit the question to the Comptroller General through the DSPE.

### **814.407 Mistakes in bids.**

#### **814.407-3 Other mistakes disclosed before award.**

(a) In accordance with FAR 14.407-3(e), the authority of the Secretary to make the administrative determinations set forth in FAR 14.407-3(a), (b), (c), and (d) is delegated to the SPE and

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is further delegated, without power of redelegation, to the DSPE. This delegation in no way impairs the delegations contained in Unpublished Decision of the Comptroller General B-122003 dated November 22, 1954.

(b) When a bidder alleges a mistake in his or her bid before award, after complying with the provisions of FAR 14.407-3, the contracting officer must submit the complete file to the DSPE for an administrative determination. Based upon the evidence submitted, the DSPE shall determine the action the contracting officer is to take. The contracting officer may make no award until the DSPE makes a determination.

#### **814.407-4 Mistakes after award.**

(a) When a contracting officer corrects a mistake in bid under FAR 14.407-4(a), the contracting officer must forward a copy of the contract amendment or supplemental agreement and a copy of the contracting officer's determination, to the DSPE.

(b) For mistakes in a bid alleged after award, the contracting officer's proposed determination, prepared in accordance with FAR 14.407-4, must be forwarded to OGC through the DSPE, Acquisition Resources Service, for legal coordination. The DSPE shall transmit the results of this coordination to the contracting officer, who will make the final determination on the alleged mistake in bid after award.

(c) The DSPE, Acquisition Resources Service, must maintain the agency records of mistakes in bids after award required by FAR 14.407-4.

#### **814.408 Award.**

##### **814.408-70 Award when only one bid is received.**

(a) When VA receives only one bid in response to an invitation for bids, the contracting officer may consider and accept the bid if all of the following apply:

- (1) The specifications used in the invitation were not restrictive.
- (2) VA solicited adequate competition.
- (3) The price is reasonable.
- (4) The bid is otherwise in accordance with the invitation for bids.

#### **48 CFR Ch. 8 (10-1-10 Edition)**

(b) The contracting officer must make the determination in writing, and include it the contract file.

##### **814.408-71 Recommendation for award (construction).**

(a) For Central Office contracts, the Director, Office of Construction and Facilities Management, must analyze all bids received and submit a memorandum to the Secretary recommending award or other disposition of the project. A copy of each of the following must accompany the memorandum:

- (1) The invitation.
- (2) Each bid received.
- (3) The abstract.
- (4) Any other pertinent data.

(b) For facility-level contracts, the Chief, Engineering Service, must analyze all bids received and submit a memorandum recommending award or other disposition of the project to the contracting officer. The contracting officer alone must make the final decision to accept or reject the lowest responsive bid and the determination as to the responsibility of a prospective contractor.

##### **814.409 Information to bidders.**

(a) An employee of VA may not disclose information as to probable acceptance or rejection of any offer to any bidder or other person outside of VA, except as authorized by the FAR.

(b) Except as provided in paragraphs (c) and (d) of this section, information about performance under a contract or an accepted bid is not public information and will be released to persons outside of VA only upon the authority of the immediate supervisor of the contracting officer.

(c) Except as provided in paragraph (d) of this section, the contracting officer may furnish information on performance under a contract to those having a legitimate interest, such as sureties, banks, other financial companies and Government departments and agencies.

(d) When litigation is involved, all information must be furnished through OGC.